

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:

Case No. 12-17723

Orlando John Costanzo, Jr.
Michele Yvonne Costanzo

Chapter 13

Hon. Jessica E. Price Smith

DEBTORS

***Motion to Compromise Automatic Stay
Claims against Westfield Bank***

Now come Debtors, Orlando & Michele Costanzo, by and through counsel, and respectfully move the Court pursuant to Section 1329 of Title 11 of the United States Code and Rule 9019 of the Rules of Bankruptcy Procedure for an entry of an order approving a settlement of automatic stay violations by Creditor, Westfield Bank, FSB (hereinafter "Westfield Bank").

1. This case was commenced by the filing of a voluntary petition under Chapter 13 of the Bankruptcy Code on 10/20/2012;
2. The 341 Meeting of Creditors was held on 11/28/2012;
3. The Chapter 13 Plan was confirmed on 03/28/13;
4. Application was made to the Court on September 10, 2014 (docket #65) to employ Attorney Marc E. Dann and The Dann Law Firm Co., LPA as counsel to pursue violations of automatic stay against Westfield Bank.
5. Said Application is still pending although no objections to the Application were filed.
6. Within several weeks after the commencement of the Debtors' bankruptcy, Debtors began receiving delinquent and late notices from Westfield Bank, a creditor being paid by the Chapter 13 Trustee pursuant to the plan.

7. Debtor Michele Costanzo made three (3) calls to the Bank, during each call she advised their representative that she and her husband Orlando were in bankruptcy and that the car payment Westfield was attempting to collect was included in the plan.

8. Westfield continued sending delinquency and late notices each month through August 2014, a total of 24 letters in violation of the automatic stay.

9. Before commencing a Motion for Contempt, Counsel for Debtors and Westfield have come to an agreement whereby Westfield Bank will withdraw its proof of claim #10 with a balance due of \$13,599, Westfield will agree to consider the debt paid in full and provide the original title to Debtors. No funds will be paid to Debtors. The settlement, inclusive of \$2,500.00 attorneys' fees, totals \$16,099.68.

10. Included in the Chapter 13 Bankruptcy Agreement, Debtors entered into a contingency fee of 40% with The Dann Law Firm Co., LPA for their services. In lieu of receipt of its 40% contingent fee, The Dann Law Firm Co., LPA has agreed to accept the reduced sum of \$2,500.00 directly from Creditor, Westfield Bank, as attorneys' fees.

11. The Dann Law Firm Co., LPA has not incurred any expenses for which they seek reimbursement for the pursuit of Debtors' claim.

12. Debtors and their counsel believe the said settlement offer is both fair and reasonable;

13. The Debtors are therefore moving this Court to approve the settlement with the following disbursements to be made from the said settlement:

- i. To **The Dann Law Firm Co., LPA** the sum of \$2,500.00 for attorneys' fees to be paid directly by Creditor to Attorney.

WHEREFORE, the Debtors respectfully pray of the Court as follows:

A. That the Debtors' motion to compromise the automatic stay claim against Westfield Bank be granted as provided for in the body of the Motion;

B. To **The Dann Law Firm Co., LPA** the sum of \$2,500.00 for attorneys' fees to be paid directly by Creditor to Attorney

C. That Creditor, Westfield Bank, within 14 days withdraw its proof of claim #10 with a balance due of \$13,599 and return the original title, marked as "lien cancelled" to Debtors.

Respectfully submitted,

/s/ Marc E. Dann

Marc E. Dann #0039425

Daniel M. Solar #0085632

Attorney for Debtors

The Dann Law Firm Co., LPA

4600 Prospect Avenue

PO Box 6031040

Cleveland, OH 44103

notices@dannlaw.com

notices@dannlaw.com

216/373-0539 – phone

216/373-0536 – fax

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

US Trustee's Office
Howard Metzenbaum
Courthouse
Via email Trustee@Usdoj.Gov

Craig Shopneck
Chapter 13 Trustee
Via email @
cshopneck13@ecf.epiqsystems.com

Tricia Pycraft
Critchfield, Critchfield &
Johnston
Via email @tpycraft@ccj.com

Via regular US Mail to:

Bank of America
ATTN: BANKRUPTCY DEPT.
PO Box 982235
El Paso, TX 79998

Best Buy
RETAIL SERVICES
PO BOX 5238
Carol Stream, IL 60197

CACH LLC
370 17th Street
Denver, CO 80202

CACH LLC
4340 South Monaco, Second
Floor
Denver, CO 80237

Capital Management Services
726 Exchange Street Suite 700
Buffalo, NY 14210

Capital One
PO Box 30273
Salt Lake City, UT 84130

Capital One
ATTN: Bankruptcy Dept
2730 Liberty Avenue
Pittsburgh, PA 15222

Capital One /Best Buy
ATTN: BANKRUPTCY DEPT
PO Box 80026
Salinas, CA 93912

Capital One Home Loans
ATTN: Bankruptcy Dept.
7311 West 132nd Street, #300
Overland Park, KS 66213

CCO MORTGAGE CORP
10561 Telegraph Rd.
Glen Allen, VA 23059

CCS Gray Ops Center
ATTN: Bankruptcy Dept.
PO Box 6497
Sioux Falls, SD 57117

Citibank South Dakota N. A.
7920 NW 110 St.
Kansas City, MO 64153

Citicards
PO Box 183062
Columbus, OH 43218-3062

Cleveland Clinic
9500 Euclid Avenue
Cleveland, OH 44195

Cleveland Municipal Court
ATTN: Clerk's Office
1200 Ontario Street
Cleveland, OH 44113

Cuyahoga County Common
Pleas Court
ATTN: Clerk of Courts
1200 Ontario Street
Cleveland, OH 44113

Dr. Paula Silverman
Siedman Cancer Center
11100 Euclid Avenue
Cleveland, OH 44106

Dr. Robert Shenk
11100 Euclid Avenue LKS 5047
Cleveland, OH 44106

Dress Barn
ATTN: Bankruptcy Dept.
PO Box 659704
San Antonio, TX 78265-9704

Edward Kraus, Esq.
615 West Superior Avenue
11th Floor
Cleveland, OH 44113

FIA CARD SERVICES, N.A.
2727 Paces Perry Rd., #1400
Atlanta, GA 30339

GE Capital Retail Bank
ATTN: Bankruptcy Dept.
PO Box 965033
Orlando, FL 32896

Green Tree Servicing
ATTN: Bankruptcy Dept.
10300 Spotsylvania Avenue
#350
Fredericksburg, VA 22408

Green Tree Servicing LLC
10089 Willow Creek Road
San Diego, CA 92131

Hastings PME
15210 Industrial Parkway
Cleveland, OH 44135

HSBC
ATTN: Bankruptcy Dept.
PO Box 2013
Buffalo, NY 14240

HSBC Retail Services
ATTN: BANKRUPTCY DEPT.
PO Box 5238
Carol Stream, IL 60197-5238

Javitch, Block, & Rathbone
1100 Superior Avenue, 19th
Floor
Cleveland, OH 44114-1503

JC Penney
PO Box 32000
Orlando, FL 32890

Joseph Lobay
470 East Hillsdale Avenue
Independence, OH 44131

KeyBank
ATTN: Bankruptcy Dept
PO Box 4825
Cleveland, OH 44101

MBNA America Bank
ATTN: Bankruptcy Dept
655 Paper Mill Road
Wilmington, DE 19884

P. Scott Lowery, PC
5680 Greenwood Plaza Blvd
#500
Englewood, CO 80111

Partners First
ATTN: Bankruptcy Dept
PO Box 84027
Columbus, GA 31908

Penncro Assoc.
95 James Way Suite 113
Southampton, PA 18966-3847

Penncro Associates, Inc.
ATTN: BANKRUPTCY DEPT.
PO Box 3003
Phoenixville, PA 19460

People's Bank
ATTN: Bankruptcy Dept.
1000 Lafayette Blvd, Floor #6
Bridgeport, CT 06604

Revenue Group
3700 Park East, Ste. 240
Beachwood, OH 44122-0996

Shell MasterCard
ATTN: Bankruptcy Dept.
PO Box 2463
Houston, TX 77252

St. John's Medical Center
ATTN: Bankruptcy Dept.
29000 Center Ridge Road
Westlake, OH 44145

The Home Depot
ATTN: Bankruptcy Dept.
PO Box 182676
Columbus, OH 43218

UHMP Physical & Rehab
Medicine
24701 Euclid Avenue
Euclid, OH 44117

Union Plus/HSBC
ATTN: Bankruptcy Dept.
PO Box 80027
Salinas, CA 93912

University Hospital Health
System
1457 East 40th Street
Cleveland, OH 44114

Weltman Weinberg & Reis Co.,
L.P.A.
323 West Lakeside Ave., Ste.
200
Cleveland, OH 44113-1099

Westfield Bank FSB
ATTN: Bankruptcy Dept.
2 Park Circle
Westfield Center, OH 44251

/s/ Marc E. Dann
Marc E. Dann #0039425
Attorney for Debtors
The Dann Law Firm Co., LPA